

EXHIBIT F

'We failed': Seattle Children's CEO admits 6 deaths, more illnesses due to mold in ORs

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Seattle Children's chief executive disclosed Monday that 14 patients have been sickened by Aspergillus mold since 2001 — six of whom died — blaming his hospital for failing to recognize a connection between the infections and the air-handling units serving its operating rooms.

Dr. Jeff Sperring, Children's chief executive, said the hospital had believed earlier infections were isolated events but that recent cases prompted staff to take another look. "Looking back, we should have made the connection sooner," he said at news conference. "Simply put, we failed."

Yet more than a dozen years ago, Eugene and Clarissa Patnode drew a direct connection between the hospital's air-filtration system and their 12-year-old daughter's Aspergillus infection that left her permanently disabled.

"This makes me sick to my stomach," John Layman, an attorney for the Patnodes, said Monday when contacted by The Seattle Times. "Our whole case was about the problems with the HVAC and it seems to have never been addressed." The family didn't respond to a message seeking comment.

Children's denied the allegation aggressively at the time, and fought the family in court for nearly three years, court records show. A spokeswoman for the hospital did not respond to questions about the lawsuit, which was settled in 2008 for an undisclosed amount, on Monday and did not respond to other questions after the news conference.

Since May, Children's, a celebrated institution whose doctors are sought after nationally, has publicly struggled to eradicate a strain of mold from its air systems, even as more mold-related infections have been confirmed. The experience of the Patnode family shows these struggles extend back much further than the hospital has previously acknowledged.



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Aspergillus is a common mold, found outdoors and indoors, that people breathe in daily without getting sick, according to the Centers for Disease Control and Prevention. People

with lung disease or weakened immune systems — and especially organ- or stem-cell-transplant patients — are at higher risk of developing aspergillosis, which can range from mild to serious, manifesting as an allergic reaction or as infections in the lungs and other organs.

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Aspergillus infections that happen while a patient is in the hospital aren't widely reported or identified across the country and little is known about Aspergillus in hospital HVAC systems, according to Jeff Duchin, public health officer of Public Health – Seattle & King County.

"I really think we're in a situation here where Children's has uncovered a very unusual problem that hasn't been described before," Duchin said. "We don't have a real playbook for 1, 2, 3 here's how you fix it."

Persistent mold

After seven infections and one death were connected to Aspergillus and problems with the air-handling system, Children's said it looked retroactively at previous cases, and found seven more illnesses and five deaths between 2001 and 2014.

In recent years, Children's has faced scrutiny from regulators over the steps it takes to guard against infections. In October 2017, inspectors with the state Department of Health cited the hospital for a serious violation over its failure to "implement and monitor an effective infection prevention program."

In June 2018, Children's closed two operating rooms and an equipment storage room for three days after Aspergillus was detected. The hospital believed the appearance of mold was due to small gaps in the walls of the operating rooms.

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Hospital officials attributed another infestation, discovered in May of this year, to a gap in the array of small air filters in an air-handling unit. State inspectors visited Children's on May 30, and cited the hospital for failing to adequately maintain its air-handling units and exhaust fans, among other shortcomings. The state signed off on Children's plans to address the issues.

The hospital, which had closed all of its operating rooms at the time, reopened them July 4. Mark Del Beccaro, Children's chief medical officer, said at the time the risk to patients "is incredibly low."

Then, on Nov. 10, the hospital disclosed that it had again detected Aspergillus in three of its

operating rooms. The hospital confirmed two days later that a surgical patient became ill and a second patient is being monitored for a possible infection from the mold. Children's closed the remaining operating rooms on Nov. 13 to sanitize them and inspect the air-handling system that serves the rooms.

In response to the series of mold issues this year, the hospital shut down one air-handling unit and cleaned and sanitized another. The hospital ordered a new air handler in May; it arrives this week. Sperring said Monday the hospital has now ordered a second air-handling system.

In addition, the hospital has installed a new air-filtration system for three operating rooms; the new system will now be extended to all 14 operating rooms, Sperring said.

The hospital said it has been testing operating rooms and affiliated areas for mold spores at least once a week since July 4, and it will do so daily. About 3,000 patients have had surgery since the operating rooms reopened on July 4.

Children's is postponing planned surgeries and diverting patients to other hospitals, including Children's Bellevue campus, UW Medical Center, Harborview Medical Center, Swedish Medical Center and Mary Bridge Children's Hospital in Tacoma, according to a spokeswoman. Unexpected surgeries for patients at the Seattle campus will be performed in other parts of the hospital, she said.

"Grave concerns"

In December 2002, the Patnodes' 12-year-old daughter came from Yakima to what was then known as Children's Hospital and Regional Medical Center with a brain tumor. Doctors removed the tumor in an eight-hour procedure, but she subsequently developed Aspergillosis in her brain and spine, according to court records.

The family questioned how their daughter could have contracted an infection in the supposedly sterile environment of an operating room, and they sued Children's in 2005. Lawyers for the Patnodes gathered extensive evidence, including testimony from former staffers about the condition and maintenance of air-handling units serving the operating rooms.

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Margaret Brown, the hospital's building and engineering manager from October 2002 to March 2003, said in a sworn statement that she was told by "infection control staff that Aspergillus was a concern," adding, "I had some grave concerns about how the hospital's critical care systems impacted CHRMC's patient population."

After bringing her concerns to her superiors, Brown said in the declaration, "I was abruptly notified my services at CHRMC were no longer needed."

Ken Johnson, who had been a lead engineer at the hospital, saw "mold was growing around the fan coils and drain pans, and live and dead birds and bird droppings were plugging the air intake system," according to a pleading filed by the family's lawyers.

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Lawyers for Children's argued that experts retained by the Patnodes couldn't prove that Aspergillus spores had entered the operating room, or that maintenance issues contributed to their daughter's infection.

They argued in a 2008 court filing that experts hired by the Patnodes couldn't determine "the number of spores in the air before surgery," and the experts couldn't determine "the number of spores that even allegedly reached the air intakes, much less entered the operating room."

In rebutting Johnson's testimony, the hospital's lawyers argued that "the presence of this bird excrement" couldn't be proven to have caused the girl's infection, and they disputed testimony regarding leaks and standing water problems with the air-handling units by saying Johnson and Brown couldn't "state with any specificity where or when these leaks occurred."

A judge agreed to dismiss some of the Patnodes' claims but ruled that a central one – "relating to the sources of the Aspergillus and how it may have gotten through the HVAC filtration and into the operating room" could go forward to a trial. The hospital and the family settled in August 2008 for an undisclosed sum.

Now, a decade later, Children's is facing similar litigation. The parents of a teenage boy sued the hospital late last month, alleging the hospital "failed to take reasonably prudent measures to prevent Aspergillus from infecting" their son, leaving him disabled.

A hospital spokeswoman said last week in response to the lawsuit, "We remain fully committed to working with this family through the legal process and supporting them during what we know is a very difficult time."

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